

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of
Thursday, March 10, 2022

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Valcq and Commissioner Nowak. Commissioner Huebner participated by telephone.

Minutes

The Commission approved the minutes of the open meeting of Thursday, March 3, 2022.

1490-CW-101 - Application of the City of Cumberland, as a Water Public Utility, for Authority to Construct a Water Main Extension Project in the City of Cumberland, Barron County, Wisconsin

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

1125-RW-175 - Tolls to be Charged for the Chippewa and Flambeau Improvement Company for the Six-Month Period Ending December 31, 2021

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

6630-SB-130 - Application of Wisconsin Electric Power Company for Authority to Issue and Sell Up to \$1.0 Billion Aggregate Principal Amount of Debt Securities in One or More Issues

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

1510-SB-110 - Application of Dahlberg Light and Power Company for Authority to Issue \$1 Million Principle Amount of Long-Term Debt

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

6650-CG-270 - Application of Wisconsin Gas LLC for Authority to Install Natural Gas Distribution Facilities Located in the Town of Stanfold, Barron County, Wisconsin

The Commission approved the Notice of Investigation and directed it to be signed by the Secretary to the Commission.

4930-WR-104 - Application of the Village of Random Lake, Sheboygan County, Wisconsin, as a Water Public Utility, for Authority to Adjust Water Rates

The Commission approved the Notice of Proceeding and directed it to be signed by the Secretary to the Commission.

9501-FE-123 - Contract for Services Between SEERA and APTIM to Administer the Focus on Energy Program for the 2019-2022 Quadrennium

Focus Carryover Process and Related Contract Amendment

The Commission reviewed the Focus carryover process and approved a process, along with the development of a contract amendment, that changes the annual carryover process to once per quadrennium in order to align four year-budgets with four-year program goals along with the method for calculating the quadrennial budget. The Commission included Commission staff's proposed process and criteria for determining when a decision on budget carryover goes to the Commission in the future as described in the Commission memorandum dated February 28, 2022 ([PSC REF#: 432369](#))

Commissioner Nowak dissented.

A decision on the use of any 2021 carryover will be returned to the Commission.

The Commission directed the Division of Digital Access, Consumer and Environmental Affairs to draft an order consistent with its discussion.

5820-SB-140 - Application of Superior Water, Light and Power Company, for Authority to Issue Outstanding During 2022 Short-term Indebtedness Not to Exceed \$20 Million

The Commission reviewed the application of Superior Water, Light and Power Company (SWLP), for Authority to Issue Outstanding During 2022 Short-term Indebtedness Not to Exceed \$20 Million and approved the application with the condition that SWLP submit an itemized disclosure of all cleanup related expenses incurred in 2022.

The Commission directed that the Division of Energy Regulation and Analysis draft an order consistent with its discussion.

137-CE-195 - Application of American Transmission Company LLC, as an Electric Public Utility, for a Certificate of Public Convenience and Necessity to Construct a New 138 kV Transmission Line from the Howards Grove Substation to the Erdman Substation located in Sheboygan County, Wisconsin

The Commission reviewed the application of American Transmission Company LLC (applicant) for a Certificate of Public Convenience and Necessity (CPCN) to construct a new 138 kV transmission line from the Howards Grove Substation to the Erdman Substation located in Sheboygan County, Wisconsin and made the following determinations:

1. The Commission approved all uncontested alternatives identified in the Final Decision Matrix ([PSC REF#: 431662](#)).
2. The project complies with Wis. Stat. § 196.491(3)(d)6. and would not unreasonably interfere with the orderly land use and development plans for the area involved.
3. The Commission approved the combined alternative route consisting of Segments 1A, 4P, 5P, and 7C.

Commissioner Nowak dissented and would have selected the Preferred Alternative as described in the Final Decision Matrix.

4. All of the following conditions are necessary for the approval of the project:
 - a. The applicant is authorized to construct the proposed transmission facility, as described in the application and data request responses, and as modified by the Final Decision.
 - b. Should the scope, design, or location of the project change significantly, the applicant shall notify the Commission within 30 days of becoming aware of possible changes. The applicant shall obtain approval from the Commission before proceeding with any substantial change in the scope, design, size, and location of the approved project.
 - c. If the applicant cancels the project or enters into any arrangement with another party regarding ownership or operation of the proposed facilities, the applicant shall provide prior notice to the Commission.
 - d. All commitments made by the applicant in its application, subsequent filings, and the provisions of this Final Decision shall apply to the applicant, any agents,

contractors, successors, assigns, corporate affiliates, and any future owners or operators of the project.

- e. The applicant shall obtain all necessary federal, state, and local permits for a construction spread prior to beginning construction, as defined by Wis. Stat. § 196.491(1)(b), on that construction spread. For the purposes of this order condition, construction spread means any subpart or segment of the proposed project established by the applicant for the purposes of managing construction of the project.
- f. The applicant shall conduct an updated Endangered Resources Review closer to the start date of construction (no more than one year prior to construction start).
- g. The applicant and its selected contractor shall participate in a pre-construction meeting with Commission and Department of Natural Resources (DNR) staff to discuss construction plans and/or final site designs, permits, and associated requirements, and Best Management Practices. Materials must be provided to Commission and DNR staff 14 days prior to the meeting date to allow time for review.
- h. The applicant shall mitigate impacts to line-of-sight communications and landowners that can show disruption to broadcast communications post construction.
- i. The applicant may propose minor adjustments to the approved route for the protection of environmental resources, to respond to landowner requests, or to implement technical design changes that arise during final stages of engineering, but any changes in alignment from the approved centerline may not affect resources not discussed in the EA, nor may they affect new landowners who have not been given proper notice and hearing opportunity. The applicant shall consult with Commission staff regarding whether the change rises to the level where Commission review and approval is appropriate. For each proposed adjustment for which Commission review is appropriate, the applicant shall submit for Commission staff review and approval a letter describing: the nature of the requested change; the reason for the requested change; the incremental difference in any environmental impacts caused by the change; communications with all potentially affected landowners regarding the change; and a map showing the approved route and the proposed modification, property boundaries, relevant natural features such as woodlands, wetlands, waterways, and other sensitive areas. Approval of the requests is delegated to the Administrator of the Division of Energy Regulation and Analysis with advice and consent from the Administrator of the Division of Digital Access, Consumer and Environmental Affairs.
- j. Beginning with the quarter ending on a date to be determined by the Commission in the Final Decision, and within 30 days of the end of each quarter thereafter and continuing until the authorized facilities are fully operational, the applicant shall

submit quarterly progress reports to the Commission that include all of the following:

1. The date that construction commences;
 2. Major construction and environmental milestones, including permits obtained, by agency, subject, and date;
 3. Summaries of the status of construction, the anticipated in-service date, and the overall percent of physical completion; and
 4. The date that the facilities are placed in service.
- k. The applicant shall submit to the Commission the final actual costs, segregated by major accounts, within one year after the in-service date. For those accounts or categories where actual costs deviate significantly from those authorized, the applicant shall itemize and explain the reasons for such deviations in the final cost report.
- l. The CPCN is valid only if construction commences no later than one year after the latest of the following dates:
1. The date the Final Decision is served;
 2. The date when the applicant has received every federal and state permit, approval, and license that is required prior to commencement of construction by construction spread under the CPCN;
 3. The date when the deadlines expire for requesting administrative review or reconsideration of the CPCN and of the permits, approvals, and licenses described in par. (b);
 4. The date when the applicant receives the Final Decision, after exhaustion of judicial review, in every proceeding for judicial review concerning the CPCN and the permits, approvals, and licenses described in par. (b.).
- m. If the applicant has not begun on-site physical construction of the authorized project within one year of the time period specified by this Final Decision, the certificate authorizing the approved project for which construction has not commenced shall become void unless the applicant:
1. files a written request for an extension of time with the Commission before the effective date on which the certificate becomes void; and
 2. is granted an extension by the Commission.
- n. If the applicant has not begun on-site physical construction of the authorized project and has not filed a written request for an extension before the date that this certificate becomes void, the applicant shall inform the Commission of those facts within 20 days after the date on which the certificate becomes void.
- o. The Final Decision takes effect one day after the date of service.
- p. Jurisdiction is retained.
5. No portions of the transmission line should be constructed underground.

6. All of the following conditions proposed by the Wisconsin Department of Agriculture, Trade and Consumer Protection are necessary for approval of the project:
 - a. The applicant should follow all recommended mitigation efforts described in Section 5.5.1 through Section 5.5.16 of Ex.-DATCP-Zopp-1 to mitigate project impacts to or regarding: topsoil, soil compaction, drainage, de-watering, irrigation, erosion, temporary access roads, managed forest lands, fencing, weed control, construction debris, crop rotation, dairy operations, organic farms and other areas with certifications, biosecurity, construction noise, and stray voltage.
 - b. The applicant should provide agricultural landowners and operators advanced notice of acquisition and construction schedules so agricultural activities can be adjusted accordingly.
 - c. The applicant should provide landowners with direct phone numbers and email addresses to project staff and project contractors that are able to respond to a range of topics including but not limited to: environmental and agricultural impacts, land acquisition and ROW, project schedule, access limitations, compensation for release of lands from conservation programming, and project complaints.
 - d. If there is adequate growing season for a crop to mature and be harvested after the applicant acquires the impacted lands, but before construction along the project corridor begins, the applicant should allow the current agricultural operators to harvest a crop for that season.
 - e. Prior to finalizing project design, the applicant should consult with the Sheboygan County Conservationist to assess whether planned land restoration and planting of the landscape within the restored project ROW minimizes drainage problems, soil erosion, and soil compaction on the remaining remnant agricultural lands as well as adjacent properties.
 - f. The applicant should monitor for the presence of underground drainage tiles within the construction ROW. If an active drainage tile is damaged or broken as a result of construction activities, the applicant shall repair or replace the damaged or broken section.
 - g. Where construction activities have altered existing drainage patterns or the natural stratification of soils resulting in new wet areas or decreased productivity, the applicant should work with landowners to determine a means to return the agricultural land either in the ROW or adjoining lands to pre-construction function. New drainage tiles or ditching, de-compaction, regrading, or additional fill may be required to correct problems that arise after construction is complete.
 - h. The applicant should consult with the affected agricultural landowners and operators to ensure any relocated, temporary, or newly established agricultural land access points are located in areas that provide safe and efficient access to remnant agricultural properties.

- i. The applicant should provide appropriate compensation to all landowners with land enrolled in a conservation easement or farm program if the landowner must reimburse the administering agency for the land's removal or alteration. These conservation or farm programs could include, but are not limited to, Conservation Reserve Program (CRP), Conservation Reserve and Enhancement Program (CREP), Farmland Preservation Program (FP), or MFL.
- j. The applicant should implement training for all construction supervisors, inspectors, and crews to ensure that they understand the steps needed to protect the integrity of agricultural lands and operations during project construction and restoration.

Commissioner Nowak dissented on condition i from the above.

7. The Commission shall grant a CPCN for the proposed project, with conditions.

The Commission directed the Division of Energy Regulation and Analysis to draft an order consistent with its discussion.

CLOSED SESSION– The Commission recessed the open meeting, went into closed session under Wis. Stat. § 19.85(1)(g) to discuss the litigation matters noted below with legal counsel, and reconvened the open meeting pursuant to Wis. Stat. § 19.85(2).

Commissioner Nowak moved, pursuant to Wis. Stat. § 19.85(1)(g), that the Commission convene in closed session to discuss the litigation matter listed below. Commissioner Huebner seconded the motion. The motion was carried and the Commission went into closed session. After a discussion in closed session, the Commission reconvened in open session.

**9709-FG-2009 - Clean Energy Manufacturing Revolving Loan Fund (CEMRLF)
Funded by a Grant Awarded by the Department of Energy, SEP-Formula, on
July 27, 2009**

**Litigation and Settlement Options Related Greenwhey Energy, Inc. Loan at issues
in *State of Wisconsin v Timothy J. Peaster, Larry E Peaster, Thomas F. Ludy*,
Dane County Case No. 17CV2340**

During the discussion held in closed session, information was presented by legal counsel to the Commission regarding the above litigation matter. No motion was made with respect to this item. The Commission provided guidance to legal counsel.

The Commission adjourned the meeting at 11:16 a.m.

A handwritten signature in black ink, appearing to read 'Cru Stubley', with a large, stylized loop at the end.

Cru Stubley
Secretary to the Commission

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